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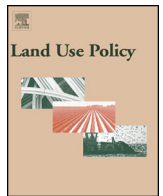
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Of mice and men: Why the unintended consequences of carbon markets matter



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ABSTRACT

Land tenure remains one of the most critical factors determining equity under REDD+, as we demonstrated through our previous article, 'Roots of inequity: how the implementation of REDD+ reinforces past injustices'. Githiru responded to this paper, with some apparent challenges to both the empirical basis and theoretical arguments, that we had put forward. In this rebuttal, we demonstrate that there were no empirical differences between our original paper and Githiru's response that had bearing on our findings, but that there are substantial differences in our interpretations of legality and equity, and consequently divergence about who can expect to benefit from REDD+. In a context where land ownership has historically and presently involved processes of dispossession, marginalization and even evictions, this rebuttal illustrates the complexity of the dominant discourse on land tenure and benefits under REDD+ and shows how social safeguards will need to take historical context and people's current entitlements and agency into account, if equitable outcomes are to be defined and realized.

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1. Introduction

'The best laid schemes of mice and men go oft awry'

We are grateful to [Githiru \(2016\)](#) for his response to our article "Roots of inequity: how the implementation of REDD+ reinforces past injustices" ([Chomba et al., 2016](#)). Differences of opinion and perception, and the debates they generate, are signs of a healthy scientific field, and that a significant issue is being addressed. Yet, we are perplexed by the title of the response, "Correcting inequities: how the implementation of the Kasigau project in fact redresses past injustices." The title indicates that the response will both correct substantive aspects of our original paper and show how the project redresses past injustices. It does neither.

In fact, the response strengthens, rather than refutes, our central finding that the benefits of the Kasigau REDD+ scheme accrue mainly to a few wealthy land owners, in a context of highly unequal land distribution predicated on a long history of unjust land acquisitions, while people with little or no land face reduced access to land and related resources. In the following we detail the absence

of difference, despite appearances, in understanding of the empirical reality of the history and present-day REDD+ project in Kasigau between Githiru's response and our original paper. We then show how this alignment breaks down at the conceptual level, where our understanding of the relation between legality and equity differs markedly from that of Githiru. We conclude by finding reason for hope that these patterns of alignment and difference are expressions of a productive dialogue concerning a topic of mutual interest and of great importance to the future of REDD+ and the people of Kenya.

As we noted in the original paper, we are not suggesting that the implementers of the Kasigau REDD+ scheme willfully set out to disadvantage already marginalized people. Rather, we observe what the actual outcomes of the project are – intended or not – and place them in a historical and theoretical context. We contend that such scrutiny is needed to further the debate about the promises and pitfalls of REDD+ schemes. This is important in a context of mounting evidence that REDD+ tends to aggravate, rather than mitigate, existing inequalities in Kenya and beyond ([Eilenberg 2015](#); [Mwangi et al., 2015](#); [Scheba and Rakotonarivo, 2016](#)).

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2. Empirical integrity

In the abstract of his response, Githiru writes that he ‘*will highlight several important inaccuracies*’ in our original paper. We naturally wish to acknowledge, and refute where appropriate, the identification of such inaccuracies.

To start, we note that the project implementers were provided with a draft of our original paper prior to publication. This was precisely to ensure accuracy of the information presented. The comments received proved valuable in verifying our understanding of certain events and issues, and also challenged us to be precise in our analyses and conclusions. Despite this, Githiru alludes to inaccuracies in our original paper. However, as we will show, Githiru does not actually identify any factual inaccuracies that affect the main thrust of our argument. Below we will respond to the issues he raises point by point, but before doing that, we wish to point out that Githiru seems more concerned that readers might misinterpret what is reported. Rather than correcting inaccuracies, Githiru uses phrases in the body of the critique such as ‘*which we feel gives the reader the notion that*’, ‘*this might give the wrong impression*’, and ‘*this might misleadingly portray a picture whereby*’. Thus, Githiru’s issue is with the potential interpretation of our analysis, rather than with the evidence we present.

In Section 2 of Githiru’s response, four apparent inaccuracies in our original paper are indicated. The first, that we accept, is that the hypothetical average annual revenue to the wider community (had it been distributed individually rather than collectively), that we quote as 5–8 USD per household, is actually per head. It would be slightly higher per household, but as Githiru also acknowledges, this does not alter the conclusion that the revenues, whether expressed per head or per household, are small.

Secondly, Githiru takes issue with the representativeness of our sample of households in the two locations where we looked at revenue distribution. He asks for more information on how the selection was done, what statistical tests were used, and for a map of the locations of interviewed households. As stated in the paper, the locations were purposively selected so as to include all forms of tenure arrangement relevant in the project area and to be ethnically diverse so that perspectives of different ethnicities would be captured. Within villages, an approximated random sample was obtained by selecting every tenth household from point zero. The point zero was the closest house to the shopping centers of Maungu and Kasigau, respectively. We are unable to provide a map of the locations of interviewed households as this would violate their anonymity. Yet, there is no reason to expect spatial bias in the sampling. We used only descriptive statistics, as described in the original paper, to summarize shareholdings, not tests of differences amongst communities.

Thirdly, Githiru takes issue with how we represent the different actors in the REDD+ project (smallholder farmers, larger land owners, etc.) and their relative gains and losses. We presented a summary of revenue distribution for residents in the five locations, whereas Githiru would have liked to see a further disaggregated sample by those he considers more or less entitled to carbon revenues based on costs, or legitimacy to receive benefits. Similarly, Githiru contests our estimates of the numbers of people involved as landowners with respect to shareholdings in DACs (directed agricultural companies). He discusses the eligibility of people of different ethnicity and historical investment in shareholdings in DACs. On this basis he questions the usefulness of looking at the percentages of current residents in any location who are shareholders, as opposed to proportions of those he considers eligible, in terms of determining how equitably shares are distributed. He is suggesting an added layer of sophistication to the analysis that we presented, which while interesting, does not replace the need to know who, out of those residing in the area, currently benefits

and by how much, from carbon revenues. So neither our methods nor evidence are actually being challenged here, but a suggestion is made for further research.

Finally, the fourth issue relates to the evictions where Githiru confirms that families were evicted, some forcibly. He provides details of the transfers of land ownership prior to the evictions and asserts that the homes were not burnt by bailiffs. Nothing in his account conflicts with the account reported in our original paper. Only two of the land owners in the chain of transfer were mentioned in our account (Meyers, the long-time owner previously known to the local community and Korchinsky), and while the local recollection is that homes were torched, we did not claim that this was done by court bailiffs. Once again, the key points are not disputed, that people were evicted, some forcibly, and that the project implementer observed the process. We welcome the confirmation of details of these evictions that have hitherto been absent from narratives about the project.

Unfortunately, despite his apparent concern about the representativeness of our data, Githiru does not provide any new data on any of the aspects he contests above, except for proportions of different ethnicities in the two locations sampled in the original paper, derived from what he describes as ‘*our long term monitoring data*’. No detail is given on the nature of these data. In a similar vein, Githiru downplays the REDD+ project’s negative impact on peoples’ livelihoods by asserting that only a small proportion of people derive income from charcoal in the area and introducing very rounded figures of ‘*about 200 individuals in Kasigau Location and less than 100 in Marungu*’. These figures are supposedly derived from ‘*a recent survey of primary charcoal producers*’. Again we are left without any details regarding the nature of these data, which makes us question its relevance, not least because people involved in illegal activities are often very hesitant to reveal themselves in surveys (St John et al., 2010).

Finally, Githiru seeks to undermine our main argument by claiming ‘*the generally widespread support for the project that is immediately evident with a visit to these communities*’. This is symptomatic of the response; a series of attempts at questioning our data, analysis and argument, by referring to project surveys, monitoring activities and impressions from visits to the area. We cannot, of course, refute these data and impressions – not least because we are not made privy to the underlying who, how and when of data collection, but stand firm in our published account of local perceptions and analyses that are based on fully documented, independent research following rigorous procedures.

Overall, we are pleased to find that Githiru is in broad agreement with our description of the empirical findings, despite his claims that our account suffers from factual inaccuracies. He confirms our historical account by stating that ‘*land tenure in Kenya has involved dispossession and elite capture enabled by colonial and post-colonial land policies, which left many local people with little or no land entitlement*’. Also at a more detailed level we struggle to find disagreements with our empirical findings. As mentioned, Githiru confirms the evictions of people. He is at pains to distance the land transaction deals between 1998 and 2000, and indeed the REDD+ project, from the consequent evictions in 2002, despite concurring with the historical consequences of colonial and post-colonial dispossessions. He is also at pains to point out that the project implementers did not enforce, but only observed, the evictions, which were carried out by Sasenyi Valley Multipurpose Cooperative (SVMC). He also confirms that people previously producing charcoal have faced reduced access to the resource as a consequence of the project. He further confirms the basis for benefit sharing that we reported. He does not challenge the proportions of carbon revenue received by project actor groups in 2010 and 2011 (53% to the project; 33% to landowners and 14% to the wider community) and provides no figures for subsequent years. He mentions, as we do in

our original paper, that the project costs include salaries for people employed in the project, some of whom are local, but does not provide a breakdown of the amounts involved, accruing to different groups of people. He provides no other evidence of how the project benefits local people, except for an oblique reference to the project working with one charcoal producers association in Sagalla to help them to conform to requirements to operate legally. He provides no figures on the actual or likely benefits that may accrue from this or to whom they would accrue. Nor does he explain how the project seeks to address issues concerning access and rights to land that, in our view, would constitute redressing the deficit in equity accorded by the historical evolution of present land ownership.

3. Conceptual conflations

Where at the empirical level we find agreement between ours and Githiru's account, despite the insinuations of inaccuracies, we disagree at a conceptual level. We find that Githiru in several instances conflates distinct concepts, and in doing so loses sight of the issue of equity.

Githiru takes issue with our definition of opportunity cost, arguing that because the economic activities that were displaced by the project – charcoal production and agriculture on land that people did not own – were illegal, the costs associated with this displacement are not 'true opportunity costs'. Githiru writes: *"the fact that most of these larger community activities related to REDD+ were largely illegal by law makes it difficult, by definition, to call them true opportunity costs. It is in fact the landowners who can legally undertake other activities like charcoaling and mining who suffer real opportunity costs."* We disagree with this conflation of legality and cost. As we describe in our original paper, many of the ranches were laying idle indicating low to zero opportunity costs of engaging with the REDD+ project, whereas the smallholder farmers and charcoal producers incurred very real and true costs as a result of their economic displacement.

Similarly, Githiru implies that since the eviction of squatters was done through a legal process it is *de facto*, just and equitable. We disagree with this conflation of legality and justice, particularly in a context where he acknowledges that the evolution of land tenure has involved past injustices. Clearly laws change and can be contested, people chose to implement them or not at any point in time and they are interpreted through a legal system. There has been a long history of differences in interpreting the meaning of land rights and ownership in Africa (Peters, 2004).

Githiru goes further in arguing for the sanctity of private property. He suggests that the analysis in the original paper fails to *"demonstrate respect for private property"*. Our original paper neither argues for, nor against, private property. Yet, we would argue that an absolute commitment to upholding the current status of private property, however it has been acquired, could be an impediment to developing equitable outcomes from REDD+. While such a stance is convenient for people who have amassed wealth in property, it is not necessarily just. It guarantees current landowners legal, but not necessarily moral, authority over the landless. As we show in the original paper, the property rights of past residents in this area were erased through various processes during the colonial and post-colonial periods, leading up to the current highly skewed distribution of property. Githiru provides no rationale for why this current distribution of private property should be seen as particularly sacred. Things get more complicated when Githiru, on the one hand attempts to localize the owners of Rukinga ranch, when defending their access to carbon benefits as part of the local community, while on the other, delegitimizing the localness of the mostly Waduruma squatters who were evicted from the project

area, along with the *"Somali cattle baron"*. Clearly there are layers of belonging and entitlement to land at play.

Githiru further questions whether it would be possible to have legally binding agreements with local communities on benefit sharing. We refer him to the long experience with community based forest management that involves various forms of institutions that act on behalf of local people (Ribot, 2003). The shortcomings of these institutions in the delivery of broad-based representation has led to calls for institutionalizing representation through democratically elected local governments (Ribot, 2004). In Kenya this would involve agreements with the county governments, which also bear the constitutional mandate for ensuring equity in access to benefits at the local level, under devolution.

In the final paragraph of the response, Githiru argues that the fact that local communities decided to take the deal on offer, constitutes 'proof' of their support for, and hence the legitimacy of, the benefit distribution in the Kasigau REDD+ project. This argument is derived from standard negotiation theory, whereby actors only agree to a deal if their second-best alternative is less lucrative. Ironically, this way of understanding the mental calculus behind the acceptance of the REDD+ project entrenches our point. Only through a long historical process of dispossession and marginalization have these communities been put in a situation of no viable alternatives to the REDD+ project.

4. Whose perspective on equity matters?

"The lady doth protest too much, methinks."

We read Githiru's response as an expression of frustration with being subjected to critical scrutiny while trying to get a market-led REDD+ project off the ground. While we sympathize, we also stand firm in our critique, not least as there is nothing in the response that contradicts the empirical basis and intellectual merit of our analysis. We welcome the debate as indicative of academic and political freedom to point at how something that appears equitable and worthy of praise when seen from one angle, can appear inequitable from another. Githiru does acknowledge that it is necessary to address *'what is fair and how are we to determine that for all parties involved'*, which, providing that some parties are not excluded because they don't have legal rights to natural resources, is what we recommend, along with specific measures to ensure the inclusion of marginalized groups.

We do not wish to further polarize the debate around how to arrive at more equitable outcomes and note that there is perhaps more agreement than is immediately apparent from the adversarial tone of Githiru's response. After all, the response recognizes that the original article *'brings an important issue to the fore'*. There is also a glimmer of hope in Githiru's acknowledgement that different perspectives on equity exist, that different benefit sharing arrangements are possible, and that providing means for people to benefit equitably is important, maybe indeed necessary. We all agree on the difficulty of determining what is equitable in the contested context of legitimacy of land rights in present day Kenya. This is especially challenging in relation to those people who are presently marginalized and often lack agency in being able to articulate their views on what constitutes equitable distribution (Chomba et al., 2015). A continued reliance on market based mechanisms alone, without specific measures to adjust for past injustices, and people's present agency, will clearly not be enough to result in benefit sharing that will be widely accepted as equitable. We suggested in the original paper a combination of government action to address land and other resource use rights, coupled with procedures to ensure a more distributive and assured sharing of carbon revenue. This needs to be done with care taken to ensure that decision making is organized in such a way, that currently marginalized groups are able to

articulate their perspective about what is equitable, with the same force as those who currently enjoy greater wealth and power.

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